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No. 74-1575

In the

Supreme Court of the United States

OCTOBER TERM, 1974

Richardson Independent School District,

Petitioner

v.

United States of America,

Respondent

MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE

Clifford E. Abrams
8033 Clearsprings Road
Dallas, Texas 75240
Amicus Curiae

No. 74-1575

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United States of America, Respondent

MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE

To the Honorable the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

Now comes Clifford E. Abrams and respectfully files this motion for leave to file the accompanying brief of amicus curiae.

Pursuant to Rule 42(1), the parties were requested to consent to filing the brief. Petitioner has consented. Respondent refused.

NATURE OF THE APPLICANT'S INTEREST

1. Pursuant to the mandate of the appellate court, Petitioner filed four plans ("Proposed

Arrangements") with the District Court that were designed to eliminate the racial identifiability of Hamilton Park Elementary School. Three of the plans involved pairing of Hamilton Park with the J. Frank Dobie Elementary School where my son is a student. Two undisputed facts are:

(1) the racial composition of elementary school students in the entire district is 97% white and 3% black, and

(2) the racial composition of the J. Frank Dobie Elementary school is not less than 9% black.

No evidence was submitted as to the racial composition of several other elementary schools within a distance of four or five miles.

I was therefore confronted with the possibility of having my son exposed to the danger of being bused from one integrated school to another integrated school, and appeared as amicus curiae in the District Court, the court having denied my Motion to Intervene.

The District Court adopted the fourth, a

voluntary, plan with certain conditions, retained jurisdiction, and ordered periodic reports. Therefore, the possible danger to my son still exists.

2. A review of the constitutional questions and cases cited in the accompanying brief convinced me that the removal of students from neighborhood schools and assignments to distant schools is unlawful. The accompanying brief was prepared and is submitted in the belief that every attorney should endeavor to be a true friend of the court. This is especially true in view of the disruptive effects on the educational processes that such assignments have wrought in our country, as reported daily in the newspapers.

FACTS OR QUESTIONS OF LAW THAT HAVE NOT BEEN, OR REASONS FOR BELIEVING THEY WILL NOT BE, PRESENTED BY THE PARTIES

Neither Petitioner's Petition for Writ of Certiorari or Respondent's Memorandum in Opposition treat the following:

1. The effect of such assignments on the

fundamental right to travel. It appears that this question has not been raised in any school desegregation case.

2. The question of whether or not federal courts have the authority to exercise punitive powers over the states as opposed to injunctive powers. It appears that this question has not been raised in any school desegregation case.

3. If the lower courts have misinterpreted the Supreme Court guidelines concerning transportation set forth in Swann, cited in the brief.

4. If such assignments, in effect, nullify the purposes of the cases decided under Brown, cited in the brief.

5. If the courts have ample remedies available in school desegregation cases without resort to such assignments.

RELEVANCY OF THE ABOVE MATTERS TO THE DISPOSITION OF THE CASE

In the event the United States Supreme Court affirms the decision of the appellate court, the

above matters all relate to the method of implementing the decision and would effect all school desegregation cases.

ARGUMENT AND CONCLUSION

For the foregoing reasons, it is my argument and conclusion that Petitioner's Petition for Writ of Certiorari should be granted and the matters raised herein and in the accompanying brief should be given full consideration.

Respectfully submitted,

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